

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ERIC DAVENPORT, )  
                    )  
Plaintiff,        )  
                    )  
v.                 )       No. 11 C 1641  
                    )  
NORTHEAST ILLINOIS REGIONAL        )  
COMMUTER RAILROAD CORPORATION,     )  
et al.,            )  
                    )  
Defendants.       )

MEMORANDUM ORDER

Although defendants in this ten-count Complaint brought by Eric Davenport ("Davenport") filed their Answer back on April 12 of this year, they had failed to comply with this District Court's LR 5.2(f) until this Court learned of that delinquency during a status hearing held last week. That deficiency has now been corrected by the delivery to this Court's chambers of a paper copy of the Answer, and this memorandum order is issued sua sponte to address some issues posed by the Affirmative Defenses ("ADs") included in that responsive pleading.

As for AD 1, which asserts qualified immunity, that is wholly at odds with the standards prescribed by Fed. R. Civ. P. ("Rule") 8(c) and the caselaw applying that Rule--see also App'x ¶5 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 279 (N.D. Ill. 2001). When Davenport's allegations are accepted as true (as they must be for AD purposes), they refute directly any assertion that the two Metra officer defendants "did not

violate clearly established constitutional or statutory right[s] of which a reasonable person would have known," as AD 1 asserts. Accordingly AD 1 is stricken.

AD 2, on the other hand, is quite another matter. It asserts a statute of limitations defense as to Davenport's state law claims, based on two Illinois statutes that establish a one-year limitations period. It does appear from the Complaint that Davenport's claims accrued on March 7, 2010, while suit was not brought until March 8, 2011. Accordingly Davenport's counsel is ordered to file a submission addressing that limitations issue on or before August 12, 2011.



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Milton I. Shadur  
Senior United States District Judge

Date: August 1, 2011